

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 5

THE GEORGE WASHINGTON UNIVERSITY

Employer

and

LOCAL 621, UCTIE, UNITED CONSTRUCTION
TRADES INDUSTRIAL EMPLOYEES UNION

Petitioner

Case 5-RC-15624

and

SERVICE EMPLOYEES INTERNATIONAL UNION,
LOCAL 82, AFL-CIO, CLC

Intervenor

SUPPLEMENTAL DECISION AND NOTICE OF HEARING

Pursuant to a Decision and Direction of Election¹ issued by me on October 16, 2003,² a secret-ballot election was conducted under my supervision on November 5, with the following results:

Approximate number of eligible voters	208
Void ballots	2
Votes cast for Petitioner	77
Votes cast for Intervenor	91
Votes cast against participating labor organization	2
Valid votes counted	170
Votes challenged	0
Valid votes counted plus challenged ballots	170

On November 12, the Petitioner filed timely objections to the conduct of and conduct affecting the results of the election.³

¹ The unit is: "All regular full-time employees and regular part-time employees of the Employer in the Housekeeping and Grounds Division, of the Facilities Management Department of the Employer in the job titles of crew leader-grounds, crew leader-environmental services, groundsperson, landscape gardener/equipment operator, equipment vehicle mechanic, small engine maintenance mechanic, service worker, linen service worker, service worker trainee, senior service worker, but excluding all executive, professional, technical, clerical, and temporary employees, employees not regularly scheduled for a standard work week of 20 or more hours, and all other employees in job classifications not specifically named in the inclusions, supervisory employees (including foremen), and guards as defined in the Act".

² All dates are in 2003 unless noted otherwise.

³ The petition was filed on September 24. The undersigned will consider on its merits only that alleged interference that occurred during the critical period that begins on and includes the date of the filing of the petition and extends through the election. *Goodyear Tire and Rubber Company*, 138 NLRB 453, 455 (1962).

OBJECTIONS ONE AND TWO

The Intervenor, Local 82 SEIU was permitted to conduct numerous campaign meetings during the employees work time on the employer's facilities. Local 621's meeting was shut down by the employer during the employee's work time.

The employer's notification to its' supervisors requesting that they, in turn, notify eligible voters of a meeting to be held at its' Fungler Hall facility by Local 621 on or about November 1st was deficient.

In support of these Objections the Petitioner has presented the affidavit of Employee A who states the Intervenor "was admitted, many times with the knowledge and consent of supervisor, India Harrison into the Fungler Hall building to conduct campaign meetings. This occurred on or about the month of October, during working hours, when employees were on the clock." Employee B states the Intervenor was always having campaign meetings on work time. Employee C states the Intervenor conducted many meetings during our working hours. Employee C goes on to state the Intervenor had meetings everyday for the last two weeks of October. The Petitioner in its position letter states it requested equal access to the employer's employees by way of a letter from the Petitioner to the Employer by overnight delivery on October 21st, a copy of which was not provided to the Region. This was responded to by a letter from the employer's counsel to the Petitioner on October 27th, directing the request to the academic scheduling office. Although the Petitioner was allocated space to conduct a meeting, an employer supervisor, India Harris, closed the Petitioner's meeting at 10:30 p.m., the time the employees were scheduled to begin their shifts. The supervisor did, however, allow the Petitioner to conduct a meeting 2:30 a.m. The meeting was attended by some employees, but many were not timely advised, as this message went out after 10:30 p.m., when the employees dispersed to their work places. Additionally, employees were told only that there would be a "union meeting," without an indication of which union was meeting at that time. According to the Petitioner, many employees were not aware this meeting was for Petitioner and, consequently, did not attend.

The Intervenor and Employer deny any objectionable conduct occurred.

It appears substantial and material issues of fact exist with respect to the allegations, which can best be resolved by record testimony. Accordingly, I direct a hearing be held with respect to the issues raised by Objections 1 and 2.

OBJECTION THREE

Local 82 SEIU repeatedly entered the employer's facilities in order to conduct campaign activity.

In support of this Objection, the Petitioner relies on the affidavit of Employee C who states the Intervenor conducted many meetings during working hours in Crawford Hall and Fungler Hall. According to Employee C, the meetings were attended by many employees, with the knowledge of supervisors, while they were "on the clock".

The Intervenor and Employer deny any objectionable conduct occurred.

It appears substantial and material issues of fact exist with respect to the allegations, which can best be resolved by record testimony. Accordingly, I direct a hearing be held with respect to the issues raised by Objection 3.

OBJECTION FOUR

Local 82 conducted campaign activity during the "24 hour" period before the election in the employer's facilities.

The Petitioner, in support of this objection, relies on photographs which it asserts show Intervenor agents engaged in campaign activity on November 4.

The Intervenor and Employer deny any objectionable conduct occurred.

It appears substantial and material issues of fact exist with respect to the allegations, which can best be resolved by record testimony. Accordingly, I direct a hearing be held with respect to the issues raised by Objection 4.

OBJECTION FIVE

Local 82 violated the no electioneering zone stipulated to by the parties at the pre-election conference, conducting electioneering immediately around the Marvin Center, venue to the election balloting.

According to the Petitioner, in an off-the record oral stipulation the Intervenor and the Petitioner agreed there would be a no-electioneering zone extending to all areas outside of the “Marvin Center,” except for the areas: 1) across the street from the Marvin Center, and 2) on the west side of the Marvin Center, 50 feet from the entrance to the building⁴. According to Petitioner, the Intervenor and its agents conducted campaign activity, including the distribution of leaflets, during the early morning session in the area outside the building where the election was being conducted and in an area Petitioner contends is a prohibited area.

The Intervenor and Employer deny any objectionable conduct occurred.

It appears substantial and material issues of fact exist with respect to the allegations, which can best be resolved by record testimony. Accordingly, I direct a hearing be held with respect to the issues raised by Objection 5.

OBJECTION SIX

The local 82 observer displayed Local 82 SEIU election campaign insignia button during the morning ballot period from 6:00 AM through 9:00AM.

According to the Petitioner, the observer for the Intervenor, in the morning session, displayed a large SEIU Local 82 insignia and logo button while the polls were open. The Petitioner states that during the pre-election conference at the Martin Center, the Board agent conducting the election requested all displays of partisanship be removed, but indicated that she could not require observers to do so. According to Petitioner, its observer then removed his

⁴ The Board agent at the time of the election recorded that at the pre-election conference the parties agreed that the no-electioneering zone would be across the street on the North, South and East side of the building, and 50 feet away from the west side. The Board agent also made clear to the parties that she could not and would not police that area.

campaign button and hat, but the observer for the Intervenor declined to do so and wore them throughout the morning session.

The Intervenor and Employer deny any objectionable conduct occurred.

It appears substantial and material issues of fact exist with respect to the allegations, which can best be resolved by record testimony. Accordingly, I direct a hearing be held with respect to the issues raised by Objection 6.

OBJECTION SEVEN

The posting of the notices of election was deficient in number and location of posting.

The Petitioner asserts that Notices of Election were not properly posted in all locations where notices to employees were ported by the Employer. In this regard, the Petitioner asserts that Notices of Election were not posted in building “JJ” on the morning of November 4th, and were not so posted “until late,” and, consequently, “everyone did not see it.”

The Intervenor and Employer deny any objectionable conduct occurred.

It appears substantial and material issues of fact exist with respect to the allegations, which can best be resolved by record testimony. Accordingly, I direct a hearing be held with respect to the issues raised by Objection 7.

SUMMARY

I direct that a hearing be conducted regarding all the Objections.

NOTICE OF HEARING

IT IS HERBY DIRECTED, pursuant to Section 102.69 of the Board’s Rules and Regulations, Series 8, as amended, that a hearing be held on January 5 and 6, 2004, at 10:00 a.m. in A HEARING ROOM, 5TH FLOOR, THE DIVISION OF JUDGES, NATIONAL LABOR RELATIONS BOARD, 1099 14TH STREET, N.W., WASHINGTON, DC, before a duly designated

Hearing Officer of the National Labor Relations Board, who will take testimony for the purpose the issues raised by the Petitioner's Objections, at which time and place the parties will have the right to appear in person, or otherwise, and give testimony. The Hearing Officer designated for the purpose of conducting such hearing shall prepare, and cause to be served upon the parties, a Report containing resolutions of the credibility of witnesses, finding of fact and recommendations to the Board as to the disposition of their issues. Within fourteen days of issuance of such Report, any party may file with the board in Washington, DC, an original and seven copies of exceptions thereto. Immediately upon filing such exceptions, the party filing the same shall serve a copy thereof on the other parties and shall file a copy with the Regional Director. If no exceptions are filed thereto, the Board may decide the matter forthwith upon the record or make other disposition of the case.

Dated at Baltimore, Maryland this 16th day of December 2003.

(SEAL)

WAYNE R. GOLD

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